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December 20, 2017

FILED VIA ECF AND THUS SERVED ON ALL COUNSEL OF RECORD

The Honorable Rebecca R. Pallmeyer
Everett McKinley Dirksen United States Courthouse
219 South Dearborn Street, Chambers 2146
Chicago, IL 60604

Re: Updates on the Austrian Extradition Proceedings in *U.S. v. Firtash*, No. 13 CR 515

Dear Judge Pallmeyer:

When I last appeared before the Court on September 15, 2017 for the second day of oral arguments related to Dmitry Firtash's pending motion to dismiss, I provided the Court an update on developments related to Mr. Firtash's extradition proceedings in Austria. As the Court will recall, Mr. Firtash was subject to extradition requests from the U.S. and from Spain and the Court was interested when those proceedings might resolve and thus when Firtash might be extradited to the U.S. I write today to provide further update on the Austrian extradition proceedings.

During oral argument on September 15, I explained that Mr. Firtash had an extraordinary writ pending with the Austrian Supreme Court related to the U.S. extradition request. (9/15/17 Transcript at 6.) This writ asked the Austrian Supreme Court for a retrial, arguing that the Austrian appellate court erred when it allowed extradition to the U.S. by overturning the Austrian trial court's decision denying extradition. The writ further asked the Austrian Supreme Court for a stay of extradition until it rules on Firtash's extraordinary appeal. I told this Court that Mr. Firtash's Austrian lawyers estimated that the Austrian Supreme Court would resolve this extraordinary writ within two to four months. (*Id.*)

I further explained that while an Austrian trial court had denied Mr. Firtash's extradition to Spain, Austrian prosecutors appealed that decision. (*Id.*) And, as with proceedings in the Austrian Supreme Court, Mr. Firtash's Austrian extradition lawyers estimated that the Austrian appellate court would resolve the Austrian prosecutors' appeal related to Spain within two to four months. (*Id.*)

In light of the above, I told the Court that, while we could not predict with complete accuracy and it depended on the actions taken by the Austrian courts, Mr. Firtash could face extradition to the U.S. within two to four months. (*Id.*)

Just this week, the Austrian courts have released new decisions related to the U.S. and Spanish extradition requests. In a written decision on December 12, 2017, which Mr. Firtash and his counsel received on December 18, 2017, the Austrian Supreme Court stayed Mr. Firtash's extradition to the United States

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pending its decision on his request for a retrial, which the Court found not without merit. The Austrian Supreme Court further stayed Mr. Firtash's extraordinary appeal proceedings until a preliminary ruling is reached in the Court of Justice of the European Union on the applicability of the EU Charter on Human Rights to the extraordinary appeal proceedings.

With respect to the Spanish extradition proceedings, the Austrian appellate court released an oral opinion on December 19, 2017 which denied the Austrian prosecutors' appeal and confirmed the Austrian trial court's decision to deny Mr. Firtash's extradition to Spain. The Austrian appellate court rejected the Austrian prosecutors' appeal on formal and substantive grounds, finding that the extradition request failed to adequately allege Mr. Firtash's participation in any crime, a failure which Spanish authorities never cured despite having been given several opportunities to do so. The Austrian appellate court's decision related to Spain's extradition request is final and binding.

These developments in Austria are significant and very likely change the timeline for when Mr. Firtash might face extradition to the U.S. While it is still difficult to predict with complete accuracy, it is now unlikely that Mr. Firtash will face extradition to the United States in the immediate future. I will continue to keep this Court apprised of any further developments related to proceedings in Austria.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan K. Webb", written over a horizontal line.

Dan K. Webb

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